

UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND

JENNY RUBIN

v.

U.S. DEPARTMENT OF STATE,
OFFICE OF THE LEGAL ADVISOR

CA 06 146 ML
No. 06 -

COMPLAINT

1. This is an action under the Freedom of Information Act ("FOIA"), 5 U.S.C. §552, to compel the production of a motion (and accompanying letter) and a Statement of Interest filed by the Department of Justice with the concurrence of the Office of the Legal Advisor to the Department of State in the case of Republic of Philippines v. Marcos, 806 F.2d 344, 356 (2d Cir. 1986).

JURISDICTION AND VENUE

2. This Court has jurisdiction over this action pursuant to 5 U.S.C. §552(a)(4)(B).
3. Venue is proper in this District pursuant to 5 U.S.C. §552(a)(4)(B).

PARTIES

4. Plaintiff Jenny Rubin is a U.S. terrorism victim. She has obtained a judgment against the Islamic Republic of Iran for damages caused to her in a terrorist attack which occurred in Jerusalem, Israel in September 1997 in Campuzano/Rubin v. Islamic Republic of Iran, 281 F.Supp.2d 258 (D.D.C. 2003).

5. Defendant, Office of the Legal Advisor to the Department of State, is an agency of the executive branch of the United States government, as defined by 5 U.S.C. §552(f), and has possession and control over the records that Plaintiff seeks.

STATEMENT OF FACTS

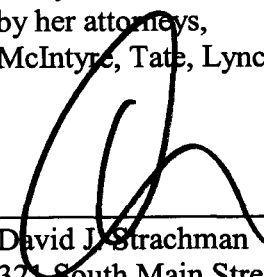
6. On October 21, 2005, Plaintiff's counsel requested that Defendant provide access to or copies of: a motion (accompanied by a letter) and a Statement of Interest filed by the Department of Justice with the concurrence of the Office of the Legal Advisor to the Department of State in the case of Republic of Philippines v. Marcos, 806 F.2d 344, 356 (2d Cir. 1986). Exhibit A.
7. The motion (accompanying letter) and Statement of Interest are not available in the court files of the United States Court of Appeals for the Second Circuit or the United States District Court for the Southern District of New York.
8. The location and type of documents requested by Plaintiff are very specific, and would therefore require minimal retrieval efforts.
9. Approximately eleven weeks after making their request on January 3, 2006, the Defendant responded that it would only then begin processing the request. Exhibit B.
10. Plaintiff's counsel has been in regular contact with the Defendant, whose staff members indicated that they are unable to explain why the documents have not been produced or when they will be produced.
11. To date Defendant has not provided Plaintiff with the requested documents nor have they issued a determination letter regarding the documents.

12. Thus under 5 U.S.C. §552 (a)(6)(A) and 5 U.S.C. §552 (a)(6)(C), plaintiff has exhausted all of her administrative remedies.
13. Plaintiff has a right of prompt access to the requested documents, as there is no legal basis for denial of such access by Defendant.
14. The Department of State, Office of the Legal Advisor has wrongfully withheld the documents requested by Plaintiff by failing to comply with the statutory time limit for processing of FOIA requests.
15. Plaintiff is entitled to the immediate disclosure and release of the requested documents.

WHEREFORE, Plaintiff requests that this Court:

1. Order Defendant to immediately process and release the requested documents;
2. Expedite this action in every way pursuant to 28 U.S.C. 1657(a);
3. Award Plaintiff her costs and reasonable attorney fees as provided by 5 U.S.C. §552 (a)(4)(E);
4. Order Defendant to waive all fees, and
5. Grant to Plaintiff any other relief as the interests of justice may require.

Jenny Rubin
by her attorneys,
McIntyre, Tate, Lynch & Holt



David J. Strachman #4404
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Providence, RI 02903
(401) 351-7700

(401) 331-6095 (fax)

CERTIFICATION

I hereby certify that on the 30th day of March, 2006, I hand delivered a true copy of the within to:

U.S. Attorneys Office
Attn: Sandy Mascola
500 Kennedy Plaza
8th Floor
Providence, RI 02903

And sent via certified mail, return receipt requested a true copy of the within to:

U.S Department of State
Attn: Christopher Riche
2201 C Street NW
Washington, DC 20520
(7004 0750 0002 4541 9769)

Attorney General of the Unites States
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20503
(7004 0750 0002 4541 9776)

